

REMARKS

Applicant's attorney is appreciative of the interview granted by Examiners Yu and Matter on October 9, 2007. At that interview, Applicant's attorney discussed the objection to the drawings, the rejection directed to non-statutory subject matter and the prior art rejection over the Ricken reference.

Objection has been raised to the drawings on the basis that they include a reference character 50 not mentioned in the description. In fact, reference character 50 is mentioned in the substitute specification in the last paragraph of page 8 in the clean copy. However, in reviewing the clean copy, it was noticed that not all strike-throughs and underlining had been deleted, and Applicant therefore encloses herewith a new copy of the clean copy which has been corrected.

Objection has also been raised to the drawings on the basis that the connection between the bellow cylinders and motors is not shown. However, as explained at the interview, the bellow cylinders, elements 45, 46, 47, 48 in Figure 2, are connected to an air pump 50 for inflation and deflation purposes, and there is no need to connect the bellows to the motors.

Claims 27-36 have been rejected under 35 USC 112, second paragraph, and Claim 27 has now been corrected to depend from Claim 19. Withdrawal of this rejection is requested.

Claims 19-36 have been rejected under 35 USC 101 on the basis that the invention is directed to non-statutory subject matter. The allegation has been made that Claim 19 positively recites "the floor" on which the device is placed.

At the interview, Applicant's attorney disagreed with this allegation, and suggested clarifying language which was accepted by the Examiner. Claim 19 has now been amended to recite that each spacer has a first end arranged on the lower

surface of the plate, and an opposite end which is free and which is constructed and arranged for directed placement on a base, to thereby space the plate a predetermined distance above the base. Clearly, the claimed elements of the invention are the single layer plate, the plurality of flexible spacers and the at least one drive source. The base, which is the floor of the stable, is not claimed.

Withdrawal of this rejection is requested.

Claims 19-21, 25 and 26 have been rejected under 35 USC 103(a) over Ricken.

As explained at the interview, Ricken discloses a double layer plate, rather than a functionally single layer plate as is presently claimed. The layers of the Ricken plate are layers 12 and 14 which are spaced by springs 22. The device also includes spacers, as the term is used in the claimed invention, for placement on the ground, but these spacers are connected to a frame member attached to both the upper and lower plates.

The invention thus distinguishes clearly over Ricken, in that the spacers of Ricken are connected to a dual layer plate, as opposed to the "functionally single layer plate" of the invention; see the paragraph bridging pages 3 and 4 of the specification, which states specifically that the "functionally single layer plate" excludes the Ricken embodiment. Moreover, if plate 14 of Ricken is cited as being a base according to the invention, which it is not, then the spacers 22 are connected at both ends, and there is no free end for direct placement on a base or on the ground.

The Ricken reference in fact discloses an apparatus for treating horses comprising a box or stall in which a particular base is set to vibrate, such that vibrations may be transmitted from the horse's hooves and legs throughout the entire body of the animal. However, this arrangement is

disadvantageous in that it is largely based on metal components which are heavy and expensive, particularly the two layers separated by spring coils which are firmly attached to each other, and which make the apparatus heavier, more expensive and more difficult to clean. As noted, this arrangement is clearly not a single layer plate.

The Ricken apparatus, as described and illustrated in the drawings, is in practice limited in size to a small box that is just large enough for the animal to be treated. The technical term for this box is a "restraint box" because it permits only a very limited amount of freedom and movement, and is therefore no longer commonly used in animal care. Another problem inherent in such restraint boxes is that they easily result in a strained animal musculature, and in that the animal to be treated, which is already reluctant to walk, needs to be brought back and forth between the stable and the treatment apparatus and constantly kept under surveillance when being treated.

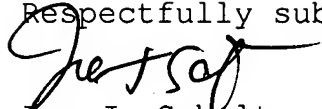
The claimed invention being clearly distinguished from the restraint box of Ricken, withdrawal of this rejection is requested.

Claim 22 is rejected under 35 USC 103(a) over Ricken in view of Cutler, which discloses a timer, and Claims 23 and 24 have been rejected under 35 USC 103(a) over Ricken in view of Komatsu, which discloses lightweight materials used for a vibration plate. However, neither of the secondary references cures the defects of the Ricken reference, and withdrawal of these rejections is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

LAW OFFICES
DENNISON, SCHULTZ & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA, VIRGINIA 22314-2700
703 837-9600

Respectfully submitted,



Ira J. Schultz
Registration No. 28666
Attorney for Applicant